

Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT

Case Summary
Civil Docket

06/24/2005
03:52 PM

SUCV2005-02173
Villanueva v Tor Rey USA Inc

File Date	05/31/2005	Status	Disposed: transfered to other court (dtrans)
Status Date	06/24/2005	Session	D - Civil D, 3 Pemberton Square, Boston
Origin	1	Case Type	B04 - Other negligence/pers injury/pro
Lead Case		Track	F

Service	08/29/2005	Answer	10/28/2005	Rule12/19/20	10/28/2005
Rule 15	10/28/2005	Discovery	03/27/2006	Rule 56	04/26/2006
Final PTC	05/26/2006	Disposition	07/25/2006	Jury Trial	Yes

PARTIES

Plaintiff

Lucia Villanueva
Active 05/31/2005

Defendant

Tor Rey USA Inc
Service pending 05/31/2005

Out-of-state attorney

kane N. Bennett
225 asylum s
Hartford,
CT 06103
Phone: 860-297-4656
Active 06/24/2005

Private Counsel 417840

Michael R Rezendes
Rezendes & Trezise
Batterymach Park II
Quincy, MA 02169
Phone: 617-472-3900
Fax: 617-472-3399
Active 05/31/2005 Notify

I HEREBY ATTEST AND CERTIFY ON

JUNE 27, 2005, THAT THE
FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY:

Lynne A. Antona
ASSISTANT CLERK

ENTRIES

Date	Paper	Text
05/31/2005	1.0	Complaint & Jury demand
05/31/2005		Origin 1, Type B04, Track F.
05/31/2005	2.0	Civil action cover sheet filed
06/24/2005		Copy of petition for removal to U. S. Dist. Court of Deft. Tor Rey USA, Inc. U. S. Dist.#(05-CV-11333MEL).
06/24/2005		Case REMOVED this date to US District Court of Massachusetts

EVENTS

CIVIL ACTION COVER SHEET	DOCKET NO.(S) <u>05-2173-1</u>	Trial Court of Massachusetts Superior Court Department County: <u>Suffolk</u>
PLAINTIFF(S) <u>Lucia Villaneuva</u>		DEFENDANT(S) <u>Tor Key USA Inc.</u>
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE <u>Michael R. Rezende 830# 417840</u> <u>REZENDES + TREZISE</u> <u>BATTERY MARCA PARK II</u> <u>QUINCY MA 02169 617-472-3900</u>		ATTORNEY (if known)
Original code and track designation		
Place an x in one box only: <input checked="" type="checkbox"/> 1. F01 Original Complaint <input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 <input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)		<input type="checkbox"/> 4. F04 District Court Appeal c. 231, s. 97 & 104 (after trial) (X) <input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgement/Order (Mass.R.Civ.P. 60) (X) <input type="checkbox"/> 6. E10 Summary Process Appeal (X)
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)		
CODE NO. <u>B04</u>	TYPE OF ACTION (specify) TRACK <u>Personal Injury</u>	IS THIS A JURY CASE? () YES () NO
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
TORT CLAIMS (Attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses		\$ <u>56,551.05</u>
2. Total Doctor expenses		\$ _____
3. Total chiropractic expenses		\$ _____
4. Total physical therapy expenses		\$ _____
5. Total other expenses (describe) <u>VNA</u>		\$ <u>415.05</u>
	Subtotal	\$ <u>56,966.90</u>
B. Documented lost wages and compensation to date		\$ <u>unknown</u>
C. Documented property damages to date		\$ _____
D. Reasonably anticipated future medical and hospital expenses		\$ <u>unknown</u>
E. Reasonably anticipated lost wages		\$ <u>unknown</u>
F. Other documented items of damages (describe)		\$ _____
G. Brief description of plaintiff's injury, including nature and extent of injury (describe) <u>Traumatic amputation of right thumb and right index finger.</u>		
TOTAL		\$ <u>966.90 +</u>
CONTRACT CLAIMS (Attach additional sheets as necessary)		
Provide a detailed description of claim(s): <u>N/A</u>		
TOTAL		\$ _____
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT <u>none</u>		
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."		
Signature of Attorney of Record <u>[Signature]</u>		DATE: <u>5/24/05</u>

AOTC-6 mtc005-11/99
a.o.s.c. 1-2000

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CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY: [Signature]
ASSISTANT CLERK.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
C.A. NO. NEW ENTRY

LUCIA VILLANUEVA)
Plaintiff)
VS.)
TOR REY USA INC.)
Defendant)

05-177-1
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE
FEB 05 MAY 31 P 2:55
SUFFOLK SUPERIOR COURT
CIVIL CLERK'S OFFICE

COMPLAINT

1. Plaintiff, Lucia Villanueva, is a resident of Chelsea, Massachusetts.
2. Defendant, Tor Rey USA Inc. is a foreign corporation with a usual place of business at 3737 Yale Street, Houston, Texas and regularly transacts and solicits business and derives revenue from goods and equipment sold, purchased and used within the Commonwealth of Massachusetts.

COUNT I

3. On or about February 18, 2005, the Plaintiff, Lucia Villanueva was caused to sustain serious and permanently disabling injuries when her right hand was caused to be pulled into a meat grinder which was designed, redesigned, manufactured, remanufactured, serviced, repaired, inspected, sold, distributed and/or placed into the stream of commerce by defendant, Tor Rey USA, Inc.
4. The injuries sustained by the Plaintiff, Lucia Villanueva, were the direct and proximate result of the carelessness and negligence of the defendant, Tor Rey USA, Inc. as follows:
 - a. It was negligent in its, design, redesign, manufacture, remanufacture, service, repair, inspection, sale, distribution and installation of the subject machine;

- b. It negligently failed to warn, instruct, adequately warn or adequately instruct the Plaintiff concerning the dangerous and defective nature and propensities of the machine when it knew or in the exercise of due care should have known that persons such as this Plaintiff were ignorant of such in dangerous or defective characteristics;
 - c. It negligently disposed of said machine and placed it into the channels of trade and the stream of commerce when the defendant knew or in the exercise of reasonable care should have known that said machine was unreasonably dangerous and defective in nature and design or in a dangerous or defective condition;
 - d. It negligently placed said machine into the channels of trade in a manner which the defendant foresaw or in the exercise of reasonable care should have foreseen would likely carry said machine into contact with persons such as the Plaintiff who are ignorant of the unreasonably dangerous and defective nature and characteristics of said machine including the Plaintiff.
5. As a direct and proximate result of the negligence of the Defendant, Tor Rey USA, Inc. as herein above set forth, the Plaintiff, Lucia Villanueva, was caused to sustain serious and permanent physical and emotional injury. By reason of said injury, Plaintiff, Lucia Villanueva, has been caused to suffer permanent loss of function and mobility, she has been caused to incur expense for hospital, surgical and medical treatment, her ability to work and earn income has been impaired, her activities have been restricted and her ability to lead a normal life has been adversely affected.

Wherefore, the Plaintiff, Lucia Villanueva, prays judgment against the Defendant, Tor Rey USA, Inc. in an amount to be determined by a jury during the trial of the action together with the costs and interest on this action.

COUNT II

6. The Plaintiff, Lucia Villanueva, herein repeats and reavers each and every allegation contained within paragraphs 1 through 5 as though specifically rewritten and set forth herein.

7. The Defendant, Tor Rey USA, Inc., expressly and impliedly warranted to the general public and to this Plaintiff in particular that said machine was safe merchantable and fit for the purpose for which it was intended.
8. The Defendant, Tor Rey USA, Inc., breached its warranties in that said machine was unsafe, not of merchantable quality and was unfit for the purposes for which it was intended.
9. Plaintiff relied upon the warranties made by the Defendant and was caused to suffer severe personal injury as a direct and proximate result of the breaches of said warranty by the defendant.
10. Due notice has been given to the defendant, Tor Rey USA, Inc., of its breaches of warranty.
11. As a direct and proximate result of the breaches of warranty of the Defendant, Tor Rey USA, Inc., all as here and above set forth, the Plaintiff, Lucia Villanueva, was caused to sustain serious and permanent physical and emotional injury, suffer permanent loss of function and mobility, she has been caused to incur expense for hospital, surgical and medical treatment, her ability to work and earn income has been impaired, her activities have been restricted and her ability to lead a normal life has been adversely affected.

Wherefore, the Plaintiff, Lucia Villanueva, prays judgment against the defendant, Tor Rey USA, Inc., in an amount to be determined by a jury during the trial of the action together with the costs and interest on this action.

COUNT III

12. The Plaintiff, Lucia Villanueva, herein repeats and reavers each and every allegation contained within paragraphs 1 through 11 as though specifically rewritten and set forth herein.
13. At all times mentioned herewith the defendant, Tor Rey USA, Inc., was engaged in trade or commerce within the meaning of M.G.L. ch. 93A.
14. The carelessness, negligence and breaches of warranty of the defendant, as more particularly set forth hereinabove,

constitute unfair or deceptive acts or practices within the meaning of M.G.L. ch. 93A as defined by the regulations of the offices of Massachusetts Attorney General.

Wherefore, Plaintiff, Lucia Villanueva, demands judgment against defendant, Tor Rey USA, Inc. in treble the amount of any judgment awarded by a jury of this Court on Counts I and II of this Complaint plus reasonable attorneys fees, interest and costs of this action pursuant to the terms and provisions of M.G.L. ch. 93A.

PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL COUNTS.

I HEREBY ATTEST AND CERTIFY ON

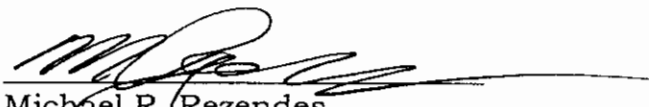
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MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

BY: 

ASSISTANT CLERK.

Respectfully submitted,
Plaintiff, Lucia Villanueva,
By her attorney,


Michael R. Rezendes
REZENDES & TREZISE
BATTERYMARCH PARK II
Quincy, MA 02169
617 472-3900
BBO#417840

Dated: May 20, 2005